

SERVICE DATE—JULY 11, 2014

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35841

PIEDMONT & ATLANTIC RAILROAD CO., INC., D/B/A YADKIN VALLEY RAILROAD
COMPANY—LEASE EXEMPTION CONTAINING INTERCHANGE COMMITMENT—
NORFOLK SOUTHERN RAILWAY COMPANY

Digest:¹ This decision allows Piedmont & Atlantic Railroad Co., Inc., d/b/a Yadkin Valley Railroad Company (YVRR), to continue to lease from Norfolk Southern Railway Company (NSR) and operate approximately 93 miles of rail line in North Carolina without giving employees the full 60-day advance notice of the transaction, because no employees would be adversely affected.

Decided: July 10, 2014

On June 13, 2014, Piedmont & Atlantic Railroad Co., Inc., d/b/a Yadkin Valley Railroad Company (YVRR), a Class III rail carrier, filed a verified notice of exemption² to continue to lease from Norfolk Southern Railway Company (NSR) and operate approximately 93 miles of rail line that extend: (1) approximately from milepost K-37.0 at Rural Hall, Forsyth County, N.C., to milepost K-100.2 at North Wilkesboro, Wilkes County, N.C.; and (2) approximately from milepost CF-0.0 at Mount Airy, Surry County, N.C., to milepost CF-29.8 at Rural Hall, Forsyth County, N.C.³ The verified notice of exemption was filed because YVRR and NSR had recently amended their original lease agreement. The amendment, among other things, extends the term of the original lease agreement, which requires Board approval.

Our regulation at 49 C.F.R. § 1150.42(e) requires that, at least 60 days before the concurrently filed notice of exemption can become effective, YVRR send notice of the

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

² Notice of the exemption was served and published in the Federal Register on June 27, 2014 (79 Fed. Reg. 36,581). But for the labor notice requirements, the exemption would become effective 30 days from its filing date, July 13, 2014.

³ YVRR was granted authority to lease and operate the rail line in Piedmont & Atlantic Railroad—Lease & Operation Exemption—L&S Holding Co., FD 32462 (ICC served Mar. 29, 1994) (original lease agreement). Subsequently, YVRR became the lessee (rather than the sub-lessee) of the line at issue.

transaction to the national offices of the labor unions with employees on the affected lines, post a copy of the notice at the workplace of the employees on the affected lines, and certify to the Board that it has done so. However, YVRR concurrently filed with its notice of exemption a petition for waiver of the employee notice requirements of § 1150.42(e).⁴ No opposition to this waiver request has been filed.

YVRR and NSR also concurrently filed a joint motion to strike from the record the information supplied in YVRR's notice of exemption pertaining to an interchange commitment, pursuant to 49 C.F.R. § 1150.43(h). The Board will address that motion in a subsequent decision.

DISCUSSION AND CONCLUSIONS

The purpose of our notice requirements at § 1150.42(e) is to ensure that rail labor unions and employees who would be affected by the transfer of a line are given sufficient notice of the transaction before consummation. The Board takes seriously the requirements of the rule, but it does not appear that the purpose of the rule would be thwarted if the requested waiver is granted in this case. The purpose of the rule is to give employees notice of a change that affects them. Here, YVRR has been leasing and operating the line since 1994 and will continue to do so.

YVRR requests a waiver so that the authority it seeks in its exemption notice can become effective without YVRR's providing the full 60-day advance notice. In support, YVRR points out that: (1) no NSR employees would be affected, because no NSR employees have worked on the line since 1997; and (2) no YVRR employees would be affected, because YVRR's rail operations will remain substantially the same as its operations under the original lease agreement.

The record indicates that no employees would be adversely affected by a waiver of the requirements here. We will therefore grant the waiver request, thereby allowing the exemption authority to become effective on July 13, 2014.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

⁴ The notice requirement only applies when the projected annual revenues resulting from the transaction would exceed \$5 million. Presumably, YVRR seeks a waiver because the projected annual revenues from this lease transaction exceed that threshold.

It is ordered:

1. YVRR's request for waiver is granted, and the exemption authority to lease and operate the line is effective on July 13, 2014.
2. This decision is effective on its date of service.

By the Board, Chairman Elliott, Vice Chairman Miller, and Commissioner Begeman.